

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

SEP 10 2015

UNITED STATES OF AMERICA,

v.

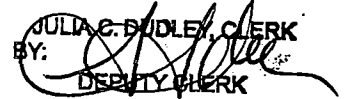
BRIAN S. GRIMMOND,

Defendant.

) CASE NO. 3:93CR70058
) (CASE NO. 3:15CV80851)
)
)

) MEMORANDUM OPINION
)
)

) By: Hon. Glen E. Conrad
) Chief United States District Judge
)

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

By opinion and order entered July 16, 2015, the court denied relief on Brian S. Grimmond's initial motion to vacate, set aside or correct the sentence under 28 U.S.C. § 2255. Now, Grimmond has filed a motion seeking leave to supplement that closed § 2255 case to raise a claim that his federal criminal sentence as imposed is unlawful under Johnson v. United States, __U.S.__, 135 S. Ct. 2551 (June 26, 2015). In the alternative, Grimmond seeks to file a new § 2255 motion under § 2255(f)(3). After review of the record, the court concludes that the current submission must be construed as a motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255, and be summarily dismissed as successive.¹

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). As stated, Grimmond previously filed a § 2255 motion concerning this same conviction and sentence. As he offers no indication that he has yet obtained certification from the court of appeals to file a second or successive § 2255 motion, the

¹ Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings, the court may summarily dismiss a § 2255 motion when it is clear from the face of the motion and the record that defendant is not entitled to relief.

court must dismiss his current action without prejudice. A separate order will be entered this day.

The clerk is directed to send a copy of this opinion and the accompanying order to defendant.

ENTER: This 10th day of September, 2015.



Chief United States District Judge